



General Assembly

***Substitute Bill No. 5842***

*January Session, 2009*

\*       HB05842HS             031809       \*

***AN ACT CONCERNING FOSTER PLACEMENT AND EDUCATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective July 1, 2009*) (a) Notwithstanding any  
2       provision of the general statutes, whenever the Department of  
3       Children and Families places a child in foster care, if it is in the best  
4       interest of such child, such child may continue to attend the school  
5       such child attended prior to placement, or change in placement,  
6       through the highest grade level of such school, provided such school is  
7       within twenty-five miles of the town in which such child is placed.  
8       Subject to the provisions of subsection (c) of this section, such child  
9       shall be considered a resident of the school district in which such  
10      school is located during such attendance for purposes of chapters 168  
11      to 170, inclusive, 172 and 173 of the general statutes.

12      (b) There shall be a presumption that it is in the best interest of the  
13      child to attend the school that the child attended prior to placement, or  
14      change in placement, by the Department of Children and Families. If  
15      there is any dispute as to whether continuation in such school is in the  
16      child's best interest, the court shall make the final determination.

17      (c) The Department of Children and Families shall be responsible  
18      for transportation, and the cost of such transportation, for such child  
19      from the district in which the child is placed to the school the child  
20      attended prior to placement.

21 Sec. 2. Subdivision (2) of subsection (e) of section 10-76d of the  
22 general statutes is repealed and the following is substituted in lieu  
23 thereof (*Effective July 1, 2009*):

24 (2) (A) For purposes of this subdivision, "public agency" includes  
25 the offices of a government of a federally recognized Native American  
26 tribe. [Notwithstanding any other provisions of the general statutes,  
27 for] For the fiscal year ending June 30, 1987, and each fiscal year  
28 thereafter, whenever a public agency, other than a local or regional  
29 board of education, the State Board of Education or the Superior Court  
30 acting pursuant to section 10-76h, places a child in a foster home,  
31 group home, hospital, state institution, receiving home, custodial  
32 institution or any other residential or day treatment facility, and such  
33 child requires special education, the local or regional board of  
34 education under whose jurisdiction the child would otherwise be  
35 attending school or, if no such board can be identified, the local or  
36 regional board of education of the town where the child is placed, shall  
37 provide the requisite special education and related services to such  
38 child in accordance with the provisions of this section. Within one  
39 business day of such a placement by the Department of Children and  
40 Families or offices of a government of a federally recognized Native  
41 American tribe, said department or offices shall orally notify the local  
42 or regional board of education responsible for providing special  
43 education and related services to such child of such placement. The  
44 department or offices shall provide written notification to such board  
45 of such placement within two business days of the placement. Such  
46 local or regional board of education shall convene a planning and  
47 placement team meeting for such child within thirty days of the  
48 placement and shall invite a representative of the Department of  
49 Children and Families or offices of a government of a federally  
50 recognized Native American tribe to participate in such meeting. [(A)  
51 The] (i) Subject to the provisions of subparagraph (B) of this  
52 subdivision, the local or regional board of education under whose  
53 jurisdiction such child would otherwise be attending school shall be  
54 financially responsible for the reasonable costs of such special

55 education and related services in an amount equal to the lesser of one  
56 hundred per cent of the costs of such education or the average per  
57 pupil educational costs of such board of education for the prior fiscal  
58 year, determined in accordance with the provisions of subsection (a) of  
59 section 10-76f. The State Board of Education shall pay on a current  
60 basis, except as provided in subdivision (3) of this subsection, any  
61 costs in excess of such local or regional board's basic contributions paid  
62 by such board of education in accordance with the provisions of this  
63 subdivision. [(B) Whenever] (ii) Subject to the provisions of  
64 subparagraph (B) of this subdivision, whenever a child is placed  
65 pursuant to this [subdivision] subparagraph, on or after July 1, 1995,  
66 by the Department of Children and Families and the local or regional  
67 board of education under whose jurisdiction such child would  
68 otherwise be attending school cannot be identified, the local or  
69 regional board of education under whose jurisdiction the child  
70 attended school or in whose district the child resided at the time of  
71 removal from the home by said department shall be responsible for the  
72 reasonable costs of special education and related services provided to  
73 such child, for one calendar year or until the child is committed to the  
74 state pursuant to section 46b-129 or 46b-140 or is returned to the child's  
75 parent or guardian, whichever is earlier. If the child remains in such  
76 placement beyond one calendar year the Department of Children and  
77 Families shall be responsible for such costs. During the period the local  
78 or regional board of education is responsible for the reasonable cost of  
79 special education and related services pursuant to this subparagraph,  
80 the board shall be responsible for such costs in an amount equal to the  
81 lesser of one hundred per cent of the costs of such education and  
82 related services or the average per pupil educational costs of such  
83 board of education for the prior fiscal year, determined in accordance  
84 with the provisions of subsection (a) of section 10-76f. The State Board  
85 of Education shall pay on a current basis, except as provided in  
86 subdivision (3) of this subsection, any costs in excess of such local or  
87 regional board's basic contributions paid by such board of education in  
88 accordance with the provisions of this subdivision. The costs for  
89 services other than educational shall be paid by the state agency which

90 placed the child. The provisions of this subdivision shall not apply to  
91 the school districts established within the Department of Children and  
92 Families, pursuant to section 17a-37, the Department of Correction,  
93 pursuant to section 18-99a, or the Department of Developmental  
94 Services, pursuant to section 17a-240, provided in any case in which  
95 special education is being provided at a private residential institution,  
96 including the residential components of regional educational service  
97 centers, to a child for whom no local or regional board of education  
98 can be found responsible under subsection (b) of this section, Unified  
99 School District #2 shall provide the special education and related  
100 services and be financially responsible for the reasonable costs of such  
101 special education instruction for such children. Notwithstanding the  
102 provisions of this subdivision, for the fiscal years ending June 30, 2004,  
103 to June 30, 2007, inclusive, the amount of the grants payable to local or  
104 regional boards of education in accordance with this subdivision shall  
105 be reduced proportionately if the total of such grants in such year  
106 exceeds the amount appropriated for the purposes of this subdivision  
107 for such year.

108 (B) Notwithstanding any other provision of the general statutes, on  
109 and after July 1, 2009, if the Department of Children and Families  
110 places a child in foster care who requires special education and related  
111 services and such child continues to attend the school such child  
112 attended prior to placement, in accordance with the provisions of  
113 section 1 of this act, the local or regional board of education for the  
114 school district in which such child attends such school shall provide or  
115 continue to provide, as appropriate, the requisite special education and  
116 related services to such child and shall be financially responsible for  
117 the cost of such special education and related services, in accordance  
118 with the provisions of sections 10-76a to 10-76g, inclusive.

119 Sec. 3. Subdivision (2) of subsection (e) of section 10-253 of the  
120 general statutes is repealed and the following is substituted in lieu  
121 thereof (*Effective July 1, 2009*):

122 (2) Children in temporary shelters shall be entitled to free school

123 privileges from either the school district in which the shelter is located  
 124 or the school district in which the child would otherwise reside, if not  
 125 for the need for temporary shelter. Upon notification from the school  
 126 district in which the temporary shelter is located, the school district in  
 127 which the child would otherwise reside, if identified, shall either pay  
 128 tuition to the school district in which the temporary shelter is located  
 129 for the child to attend school in that district or shall continue to  
 130 provide educational services, including transportation, to such child. If  
 131 the school district where the child would otherwise reside cannot be  
 132 identified, the school district in which the temporary shelter is located  
 133 shall be financially responsible for the educational costs for such child,  
 134 except that in the case of a child who requires special education and  
 135 related services and is placed by the Department of Children and  
 136 Families in a temporary shelter on or after July 1, 1995, the school  
 137 district in which the child resided immediately prior to such placement  
 138 or the Department of Children and Families shall be responsible for the  
 139 cost of such special education and related services, to the extent such  
 140 board or department is responsible for such costs under subparagraph  
 141 ~~[(B)]~~ (A)(ii) of subdivision (2) of subsection (e) of section 10-76d, as  
 142 amended by this act. If the school district where the child would  
 143 otherwise reside declines to provide free school privileges, the school  
 144 district where the temporary shelter is located shall provide free school  
 145 privileges and may recover tuition from the school district where the  
 146 child would otherwise reside. In the case of children requiring special  
 147 education who have been placed in out-of-district programs by either a  
 148 board of education or state agency, the school district in which the  
 149 child would otherwise reside shall continue to be responsible for the  
 150 child's education until such time as a new residence is established,  
 151 notwithstanding the fact that the child or child's family resides in a  
 152 temporary shelter.

This act shall take effect as follows and shall amend the following sections:

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| Section 1 | July 1, 2009 | New section  |
| Sec. 2    | July 1, 2009 | 10-76d(e)(2) |

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| Sec. 3 | July 1, 2009 | 10-253(e)(2) |
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***Statement of Legislative Commissioners:***

In section 2(B), the phrase on financial responsibility was added for clarity and for consistency with the provisions of sections 10-76a to 10-76g, inclusive.

**HS**      *Joint Favorable Subst.-LCO*